

1 AN ACT concerning transportation.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Vehicle Code is amended by changing  
5 Section 11-501 as follows:

6 (625 ILCS 5/11-501) (from Ch. 95 1/2, par. 11-501)

7 Sec. 11-501. Driving while under the influence of alcohol,  
8 other drug or drugs, intoxicating compound or compounds or any  
9 combination thereof.

10 (a) A person shall not drive or be in actual physical  
11 control of any vehicle within this State while:

12 (1) the alcohol concentration in the person's blood or  
13 breath is 0.08 or more based on the definition of blood and  
14 breath units in Section 11-501.2;

15 (2) under the influence of alcohol;

16 (3) under the influence of any intoxicating compound or  
17 combination of intoxicating compounds to a degree that  
18 renders the person incapable of driving safely;

19 (4) under the influence of any other drug or  
20 combination of drugs to a degree that renders the person  
21 incapable of safely driving;

22 (5) under the combined influence of alcohol, other drug  
23 or drugs, or intoxicating compound or compounds to a degree  
24 that renders the person incapable of safely driving; or

25 (6) there is any amount of a drug, substance, or  
26 compound in the person's breath, blood, or urine resulting  
27 from the unlawful use or consumption of cannabis listed in  
28 the Cannabis Control Act, a controlled substance listed in  
29 the Illinois Controlled Substances Act, or an intoxicating  
30 compound listed in the Use of Intoxicating Compounds Act.

31 (b) The fact that any person charged with violating this  
32 Section is or has been legally entitled to use alcohol, other

1 drug or drugs, or intoxicating compound or compounds, or any  
2 combination thereof, shall not constitute a defense against any  
3 charge of violating this Section.

4 (b-1) With regard to penalties imposed under this Section:

5 (1) Any reference to a prior violation of subsection  
6 (a) or a similar provision includes any violation of a  
7 provision of a local ordinance or a provision of a law of  
8 another state that is similar to a violation of subsection  
9 (a) of this Section.

10 (2) Any penalty imposed for driving with a license that  
11 has been revoked for a previous violation of subsection (a)  
12 of this Section shall be in addition to the penalty imposed  
13 for any subsequent violation of subsection (a).

14 (b-2) Except as otherwise provided in this Section, any  
15 person convicted of violating subsection (a) of this Section is  
16 guilty of a Class A misdemeanor.

17 (b-3) In addition to any other criminal or administrative  
18 sanction for any second conviction of violating subsection (a)  
19 or a similar provision committed within 5 years of a previous  
20 violation of subsection (a) or a similar provision, the  
21 defendant shall be sentenced to a mandatory minimum of 5 days  
22 of imprisonment or assigned a mandatory minimum of 240 hours of  
23 community service as may be determined by the court.

24 (b-4) In the case of a third or subsequent violation  
25 committed within 5 years of a previous violation of subsection  
26 (a) or a similar provision, in addition to any other criminal  
27 or administrative sanction, a mandatory minimum term of either  
28 10 days of imprisonment or 480 hours of community service shall  
29 be imposed.

30 (b-5) The imprisonment or assignment of community service  
31 under subsections (b-3) and (b-4) shall not be subject to  
32 suspension, nor shall the person be eligible for a reduced  
33 sentence.

34 (c) (Blank).

35 (c-1) (1) A person who violates subsection (a) during a  
36 period in which his or her driving privileges are revoked

1 or suspended, where the revocation or suspension was for a  
2 violation of subsection (a), Section 11-501.1, paragraph  
3 (b) of Section 11-401, or for reckless homicide as defined  
4 in Section 9-3 of the Criminal Code of 1961 is guilty of a  
5 Class 4 felony.

6 (2) A person who violates subsection (a) a third time,  
7 if the third violation occurs during a period in which his  
8 or her driving privileges are revoked or suspended where  
9 the revocation or suspension was for a violation of  
10 subsection (a), Section 11-501.1, paragraph (b) of Section  
11 11-401, or for reckless homicide as defined in Section 9-3  
12 of the Criminal Code of 1961, is guilty of a Class 3  
13 felony. ~~(2.1) A person who violates subsection (a) a third~~  
14 ~~time, if the third violation occurs during a period in~~  
15 ~~which his or her driving privileges are revoked or~~  
16 ~~suspended where the revocation or suspension was for a~~  
17 ~~violation of subsection (a), Section 11 501.1, subsection~~  
18 ~~(b) of Section 11 401, or for reckless homicide as defined~~  
19 ~~in Section 9 3 of the Criminal Code of 1961, is guilty of a~~  
20 ~~Class 3 felony;~~ and if the person receives a term of  
21 probation or conditional discharge, he or she shall be  
22 required to serve a mandatory minimum of 10 days of  
23 imprisonment or shall be assigned a mandatory minimum of  
24 480 hours of community service, as may be determined by the  
25 court, as a condition of the probation or conditional  
26 discharge. This mandatory minimum term of imprisonment or  
27 assignment of community service shall not be suspended or  
28 reduced by the court.

29 (2.2) A person who violates subsection (a), if the  
30 violation occurs during a period in which his or her  
31 driving privileges are revoked or suspended where the  
32 revocation or suspension was for a violation of subsection  
33 (a) or Section 11-501.1, shall also be sentenced to an  
34 additional mandatory minimum term of 30 consecutive days of  
35 imprisonment, 40 days of 24-hour periodic imprisonment, or  
36 720 hours of community service, as may be determined by the

1 court. This mandatory term of imprisonment or assignment of  
2 community service shall not be suspended or reduced by the  
3 court.

4 (3) A person who violates subsection (a) a fourth or  
5 subsequent time, if the fourth or subsequent violation  
6 occurs during a period in which his or her driving  
7 privileges are revoked or suspended where the revocation or  
8 suspension was for a violation of subsection (a), Section  
9 11-501.1, paragraph (b) of Section 11-401, or for reckless  
10 homicide as defined in Section 9-3 of the Criminal Code of  
11 1961, is guilty of a Class 2 felony and is not eligible for  
12 a sentence of probation or conditional discharge.

13 (c-2) (Blank).

14 (c-3) (Blank).

15 (c-4) (Blank).

16 (c-5) Except as provided in subsection (c-5.1), a ~~A~~ person  
17 21 years of age or older who violates subsection (a), if the  
18 person was transporting a person under the age of 16 at the  
19 time of the violation, is subject to 6 months of imprisonment,  
20 an additional mandatory minimum fine of \$1,000, and 25 days ~~an~~  
21 ~~additional mandatory minimum 140 hours~~ of community service,  
22 ~~which shall include 40 hours of community service~~ in a program  
23 benefiting children, ~~and an additional 2 days of imprisonment.~~  
24 The imprisonment or assignment of community service under this  
25 subsection (c-5) is not subject to suspension, nor is the  
26 person eligible for a reduced sentence.

27 (c-5.1) A person 21 years of age or older who is convicted  
28 of violating subsection (a) of this Section a first time and  
29 who in committing that violation was involved in a motor  
30 vehicle accident that resulted in bodily harm to the child  
31 under the age of 16 being transported by the person, if the  
32 violation was the proximate cause of the injury, is guilty of a  
33 Class 4 felony and is subject to one year of imprisonment, a  
34 mandatory fine of \$2,500, and 25 days of community service in a  
35 program benefiting children. The imprisonment or assignment to  
36 community service under this subsection (c-5.1) shall not be

1 subject to suspension, nor shall the person be eligible for  
2 probation in order to reduce the sentence or assignment.

3 (c-6) Except as provided in subsections (c-7) and (c-7.1),  
4 ~~(c-8)~~ a person 21 years of age or older who violates subsection  
5 (a) a second time, if at the time of the second violation the  
6 person was transporting a person under the age of 16, is  
7 subject to 6 months ~~an additional 10 days~~ of imprisonment, an  
8 additional mandatory minimum fine of \$1,000, and an additional  
9 mandatory minimum 140 hours of community service, which shall  
10 include 40 hours of community service in a program benefiting  
11 children. The imprisonment or assignment of community service  
12 under this subsection (c-6) is not subject to suspension, nor  
13 is the person eligible for a reduced sentence.

14 (c-7) Except as provided in subsection (c-7.1) ~~(c-8)~~, any  
15 person 21 years of age or older convicted of violating  
16 subsection (c-6) or a similar provision within 10 years of a  
17 previous violation of subsection (a) or a similar provision is  
18 guilty of a Class 4 felony and shall receive, in addition to  
19 any other penalty imposed, is subject to one year of a  
20 ~~mandatory minimum 12 days~~ imprisonment, 25 days ~~an additional~~  
21 ~~40 hours~~ of mandatory community service in a program benefiting  
22 children, and a mandatory ~~minimum~~ fine of \$2,500 ~~\$1,750~~. The  
23 imprisonment or assignment of community service under this  
24 subsection (c-7) is not subject to suspension, nor is the  
25 person eligible for a reduced sentence.

26 (c-7.1) A person 21 years of age or older who is convicted  
27 of violating subsection (a) of this Section a second time  
28 within 10 years and who in committing that violation was  
29 involved in a motor vehicle accident that resulted in bodily  
30 harm to the child under the age of 16 being transported, if the  
31 violation was the proximate cause of the injury, is guilty of a  
32 Class 4 felony and is subject to 18 months of imprisonment, a  
33 mandatory fine of \$5,000, and 25 days of community service in a  
34 program benefiting children. The imprisonment or assignment to  
35 community service under this subsection (c-7.1) shall not be  
36 subject to suspension, nor shall the person be eligible for

1 probation in order to reduce the sentence or assignment.

2 (c-8) (Blank). ~~Any person convicted of violating~~  
3 ~~subsection (c-6) or a similar provision within 5 years of a~~  
4 ~~previous violation of subsection (a) or a similar provision~~  
5 ~~shall receive, in addition to any other penalty imposed, an~~  
6 ~~additional 80 hours of mandatory community service in a program~~  
7 ~~benefiting children, an additional mandatory minimum 12 days of~~  
8 ~~imprisonment, and a mandatory minimum fine of \$1,750. The~~  
9 ~~imprisonment or assignment of community service under this~~  
10 ~~subsection (c-8) is not subject to suspension, nor is the~~  
11 ~~person eligible for a reduced sentence.~~

12 (c-9) Any person 21 years of age or older convicted a  
13 third time for violating subsection (a) or a similar provision,  
14 if at the time of the third violation the person was  
15 transporting a person under the age of 16, is guilty of a Class  
16 4 felony and is subject to 18 months of imprisonment, a shall  
17 ~~receive, in addition to any other penalty imposed, an~~  
18 ~~additional mandatory fine of \$2,500, and 25 days \$1,000, an~~  
19 ~~additional mandatory 140 hours of community service, which~~  
20 ~~shall include 40 hours in a program benefiting children, and a~~  
21 ~~mandatory minimum 30 days of imprisonment.~~ The imprisonment or  
22 assignment of community service under this subsection (c-9) is  
23 not subject to suspension, nor is the person eligible for a  
24 reduced sentence.

25 (c-10) Any person 21 years of age or older convicted of  
26 violating subsection (c-9) or a similar provision a third time  
27 within 20 years of a previous violation of subsection (a) or a  
28 similar provision is guilty of a Class 3 Class 4 felony and  
29 ~~shall receive, in addition to any other penalty imposed, is~~  
30 subject to 3 years of imprisonment, 25 days an additional  
31 ~~mandatory 40 hours~~ of community service in a program benefiting  
32 children, and a an additional mandatory fine of \$25,000 \$3000,  
33 ~~and a mandatory minimum 120 days of imprisonment.~~ The  
34 imprisonment or assignment of community service under this  
35 subsection (c-10) is not subject to suspension, nor is the  
36 person eligible for a reduced sentence.

1 (c-11) Any person 21 years of age or older convicted a  
2 fourth or subsequent time for violating subsection (a) or a  
3 similar provision, if at the time of the fourth or subsequent  
4 violation the person was transporting a person under the age of  
5 16, and if the person's 3 prior violations of subsection (a) or  
6 a similar provision occurred while transporting a person under  
7 the age of 16 or while the alcohol concentration in his or her  
8 blood, breath, or urine was 0.16 or more based on the  
9 definition of blood, breath, or urine units in Section  
10 11-501.2, is guilty of a Class 2 felony, is not eligible for  
11 probation or conditional discharge, and is subject to a minimum  
12 fine of \$25,000 ~~\$3,000~~.

13 (c-12) Any person convicted of a first violation of  
14 subsection (a) or a similar provision, if the alcohol  
15 concentration in his or her blood, breath, or urine was 0.16 or  
16 more based on the definition of blood, breath, or urine units  
17 in Section 11-501.2, shall be subject, in addition to any other  
18 penalty that may be imposed, to a mandatory minimum of 100  
19 hours of community service and a mandatory minimum fine of  
20 \$500.

21 (c-13) Any person convicted of a second violation of  
22 subsection (a) or a similar provision committed within 10 years  
23 of a previous violation of subsection (a) or a similar  
24 provision ~~committed within 10 years of a previous violation of~~  
25 ~~subsection (a) or a similar provision~~, if at the time of the  
26 second violation of subsection (a) or a similar provision the  
27 alcohol concentration in his or her blood, breath, or urine was  
28 0.16 or more based on the definition of blood, breath, or urine  
29 units in Section 11-501.2, shall be subject, in addition to any  
30 other penalty that may be imposed, to a mandatory minimum of 2  
31 days of imprisonment and a mandatory minimum fine of \$1,250.

32 (c-14) Any person convicted of a third violation of  
33 subsection (a) or a similar provision within 20 years of a  
34 previous violation of subsection (a) or a similar provision, if  
35 at the time of the third violation of subsection (a) or a  
36 similar provision the alcohol concentration in his or her

1 blood, breath, or urine was 0.16 or more based on the  
2 definition of blood, breath, or urine units in Section  
3 11-501.2, is guilty of a Class 4 felony and shall be subject,  
4 in addition to any other penalty that may be imposed, to a  
5 mandatory minimum of 90 days of imprisonment and a mandatory  
6 minimum fine of \$2,500.

7 (c-15) Any person convicted of a fourth or subsequent  
8 violation of subsection (a) or a similar provision, if at the  
9 time of the fourth or subsequent violation the alcohol  
10 concentration in his or her blood, breath, or urine was 0.16 or  
11 more based on the definition of blood, breath, or urine units  
12 in Section 11-501.2, and if the person's 3 prior violations of  
13 subsection (a) or a similar provision occurred while  
14 transporting a person under the age of 16 or while the alcohol  
15 concentration in his or her blood, breath, or urine was 0.16 or  
16 more based on the definition of blood, breath, or urine units  
17 in Section 11-501.2, is guilty of a Class 2 felony and is not  
18 eligible for a sentence of probation or conditional discharge  
19 and is subject to a minimum fine of \$2,500.

20 (d) (1) Every person convicted of committing a violation of  
21 this Section shall be guilty of aggravated driving under  
22 the influence of alcohol, other drug or drugs, or  
23 intoxicating compound or compounds, or any combination  
24 thereof if:

25 (A) the person committed a violation of subsection  
26 (a) or a similar provision for the third or subsequent  
27 time;

28 (B) the person committed a violation of subsection  
29 (a) while driving a school bus with persons 18 years of  
30 age or younger on board;

31 (C) the person in committing a violation of  
32 subsection (a) was involved in a motor vehicle accident  
33 that resulted in great bodily harm or permanent  
34 disability or disfigurement to another, when the  
35 violation was a proximate cause of the injuries;

36 (D) the person committed a violation of subsection

1 (a) for a second time and has been previously convicted  
2 of violating Section 9-3 of the Criminal Code of 1961  
3 or a similar provision of a law of another state  
4 relating to reckless homicide in which the person was  
5 determined to have been under the influence of alcohol,  
6 other drug or drugs, or intoxicating compound or  
7 compounds as an element of the offense or the person  
8 has previously been convicted under subparagraph (C)  
9 or subparagraph (F) of this paragraph (1);

10 (E) the person, in committing a violation of  
11 subsection (a) while driving at any speed in a school  
12 speed zone at a time when a speed limit of 20 miles per  
13 hour was in effect under subsection (a) of Section  
14 11-605 of this Code, was involved in a motor vehicle  
15 accident that resulted in bodily harm, other than great  
16 bodily harm or permanent disability or disfigurement,  
17 to another person, when the violation of subsection (a)  
18 was a proximate cause of the bodily harm; or

19 (F) the person, in committing a violation of  
20 subsection (a), was involved in a motor vehicle,  
21 snowmobile, all-terrain vehicle, or watercraft  
22 accident that resulted in the death of another person,  
23 when the violation of subsection (a) was a proximate  
24 cause of the death.

25 (2) Except as provided in this paragraph (2), a person  
26 convicted of aggravated driving under the influence of  
27 alcohol, other drug or drugs, or intoxicating compound or  
28 compounds, or any combination thereof is guilty of a Class  
29 4 felony. For a violation of subparagraph (C) of paragraph  
30 (1) of this subsection (d), the defendant, if sentenced to  
31 a term of imprisonment, shall be sentenced to not less than  
32 one year nor more than 12 years. Aggravated driving under  
33 the influence of alcohol, other drug or drugs, or  
34 intoxicating compound or compounds, or any combination  
35 thereof as defined in subparagraph (F) of paragraph (1) of  
36 this subsection (d) is a Class 2 felony, for which the

1 defendant, if sentenced to a term of imprisonment, shall be  
2 sentenced to: (A) a term of imprisonment of not less than 3  
3 years and not more than 14 years if the violation resulted  
4 in the death of one person; or (B) a term of imprisonment  
5 of not less than 6 years and not more than 28 years if the  
6 violation resulted in the deaths of 2 or more persons. For  
7 any prosecution under this subsection (d), a certified copy  
8 of the driving abstract of the defendant shall be admitted  
9 as proof of any prior conviction. Any person sentenced  
10 under this subsection (d) who receives a term of probation  
11 or conditional discharge must serve a minimum term of  
12 either 480 hours of community service or 10 days of  
13 imprisonment as a condition of the probation or conditional  
14 discharge. This mandatory minimum term of imprisonment or  
15 assignment of community service may not be suspended or  
16 reduced by the court.

17 (e) After a finding of guilt and prior to any final  
18 sentencing, or an order for supervision, for an offense based  
19 upon an arrest for a violation of this Section or a similar  
20 provision of a local ordinance, individuals shall be required  
21 to undergo a professional evaluation to determine if an  
22 alcohol, drug, or intoxicating compound abuse problem exists  
23 and the extent of the problem, and undergo the imposition of  
24 treatment as appropriate. Programs conducting these  
25 evaluations shall be licensed by the Department of Human  
26 Services. The cost of any professional evaluation shall be paid  
27 for by the individual required to undergo the professional  
28 evaluation.

29 (e-1) Any person who is found guilty of or pleads guilty to  
30 violating this Section, including any person receiving a  
31 disposition of court supervision for violating this Section,  
32 may be required by the Court to attend a victim impact panel  
33 offered by, or under contract with, a County State's Attorney's  
34 office, a probation and court services department, Mothers  
35 Against Drunk Driving, or the Alliance Against Intoxicated  
36 Motorists. All costs generated by the victim impact panel shall

1 be paid from fees collected from the offender or as may be  
2 determined by the court.

3 (f) Every person found guilty of violating this Section,  
4 whose operation of a motor vehicle while in violation of this  
5 Section proximately caused any incident resulting in an  
6 appropriate emergency response, shall be liable for the expense  
7 of an emergency response as provided under Section 5-5-3 of the  
8 Unified Code of Corrections.

9 (g) The Secretary of State shall revoke the driving  
10 privileges of any person convicted under this Section or a  
11 similar provision of a local ordinance.

12 (h) (Blank).

13 (i) The Secretary of State shall require the use of  
14 ignition interlock devices on all vehicles owned by an  
15 individual who has been convicted of a second or subsequent  
16 offense of this Section or a similar provision of a local  
17 ordinance. The Secretary shall establish by rule and regulation  
18 the procedures for certification and use of the interlock  
19 system.

20 (j) In addition to any other penalties and liabilities, a  
21 person who is found guilty of or pleads guilty to violating  
22 subsection (a), including any person placed on court  
23 supervision for violating subsection (a), shall be fined \$500,  
24 payable to the circuit clerk, who shall distribute the money as  
25 follows: 20% to the law enforcement agency that made the arrest  
26 and 80% shall be forwarded to the State Treasurer for deposit  
27 into the General Revenue Fund. If the person has been  
28 previously convicted of violating subsection (a) or a similar  
29 provision of a local ordinance, the fine shall be \$1,000. In  
30 the event that more than one agency is responsible for the  
31 arrest, the amount payable to law enforcement agencies shall be  
32 shared equally. Any moneys received by a law enforcement agency  
33 under this subsection (j) shall be used to purchase law  
34 enforcement equipment that will assist in the prevention of  
35 alcohol related criminal violence throughout the State. This  
36 shall include, but is not limited to, in-car video cameras,

1 radar and laser speed detection devices, and alcohol breath  
2 testers. Any moneys received by the Department of State Police  
3 under this subsection (j) shall be deposited into the State  
4 Police DUI Fund and shall be used to purchase law enforcement  
5 equipment that will assist in the prevention of alcohol related  
6 criminal violence throughout the State.

7 (k) The Secretary of State Police DUI Fund is created as a  
8 special fund in the State treasury. All moneys received by the  
9 Secretary of State Police under subsection (j) of this Section  
10 shall be deposited into the Secretary of State Police DUI Fund  
11 and, subject to appropriation, shall be used to purchase law  
12 enforcement equipment to assist in the prevention of alcohol  
13 related criminal violence throughout the State.

14 (l) Whenever an individual is sentenced for an offense  
15 based upon an arrest for a violation of subsection (a) or a  
16 similar provision of a local ordinance, and the professional  
17 evaluation recommends remedial or rehabilitative treatment or  
18 education, neither the treatment nor the education shall be the  
19 sole disposition and either or both may be imposed only in  
20 conjunction with another disposition. The court shall monitor  
21 compliance with any remedial education or treatment  
22 recommendations contained in the professional evaluation.  
23 Programs conducting alcohol or other drug evaluation or  
24 remedial education must be licensed by the Department of Human  
25 Services. If the individual is not a resident of Illinois,  
26 however, the court may accept an alcohol or other drug  
27 evaluation or remedial education program in the individual's  
28 state of residence. Programs providing treatment must be  
29 licensed under existing applicable alcoholism and drug  
30 treatment licensure standards.

31 (m) In addition to any other fine or penalty required by  
32 law, an individual convicted of a violation of subsection (a),  
33 Section 5-7 of the Snowmobile Registration and Safety Act,  
34 Section 5-16 of the Boat Registration and Safety Act, or a  
35 similar provision, whose operation of a motor vehicle,  
36 snowmobile, or watercraft while in violation of subsection (a),

1 Section 5-7 of the Snowmobile Registration and Safety Act,  
2 Section 5-16 of the Boat Registration and Safety Act, or a  
3 similar provision proximately caused an incident resulting in  
4 an appropriate emergency response, shall be required to make  
5 restitution to a public agency for the costs of that emergency  
6 response. The restitution may not exceed \$1,000 per public  
7 agency for each emergency response. As used in this subsection  
8 (m), "emergency response" means any incident requiring a  
9 response by a police officer, a firefighter carried on the  
10 rolls of a regularly constituted fire department, or an  
11 ambulance.

12 (Source: P.A. 92-248, eff. 8-3-01; 92-418, eff. 8-17-01;  
13 92-420, eff. 8-17-01; 92-429, eff. 1-1-02; 92-431, eff. 1-1-02;  
14 92-651, eff. 7-11-02; 93-156, eff. 1-1-04; 93-213, eff.  
15 7-18-03; 93-584, eff. 8-22-03; 93-712, eff. 1-1-05; 93-800,  
16 eff. 1-1-05; 93-840, eff. 7-30-04; revised 10-21-04.)